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June 28, 2018

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The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai:

Your April 27, 2018 response to my inquiry regarding the collection and use of consumers' television viewing information by the data analysis firm Cambridge Analytica raises more questions than answers. The FCC has clear authority and a responsibility to protect the viewing data of cable and satellite television subscribers. Your punting this matter to the FTC raises questions as to whether the FCC takes serious its obligation to aggressively and effectively protect consumer privacy. This is greatly concerning to me, and should be to you, too. Studies have shown that consumers are very worried about the privacy and security of their personal data.¹

As you acknowledge in your letter, Sections 338² and 631³ of the Communications Act prohibit cable and satellite operators from disclosing a subscriber's Personally Identifiable Information (PII) without prior consent from the subscriber. Yet you declined to investigate whether any violation of Sections 338 or 631 occurred, because it was "unclear" what data Cambridge Analytica acquired. While the FTC has jurisdiction over TiVo and ComScore, the FCC has responsibility to investigate whether companies under its jurisdiction violated the Communications Act. This is critical because the FTC is not empowered to enforce the Communications Act privacy protections.

I would like a better understanding of whether the FCC is currently, or has recently, acted to protect subscriber data. So the public can better understand the priority the FCC places on ensuring our data is appropriately protected, please provide answers to the following questions

¹ *New Survey Finds Deep Consumer Anxiety over Data Privacy and Security*, Press Release (April 16, 2018) (press release).

² 47 U.S.C. § 338(i).

³ 47 U.S.C. § 551.

about the enforcement of the cable and satellite privacy provisions.⁴ For each inquiry, please identify separately the answer for each Section of the Act.

1. In the past three years, how many investigations has the FCC initiated to determine whether a target was in compliance with either Section 338 or Section 631 of the Communications Act?
2. In the past three years, how many investigations regarding a target's compliance with either Section 338 or Section 631 of the Communications Act has the FCC closed?
3. In the past three years, how many Notices of Apparent Liability (NAL) has the Commission released indicating that a target was apparently liable for violating either Section 338 or Section 631 of the Communications Act? Please provide citations to all such NALs.
4. In the past three years, how many Forfeiture Orders (FO) has the Commission released finding that a target was apparently liable for violating either Section 338 or Section 631 of the Communications Act? Please provide citations to all such FOs.
5. In the past three years, how many Consent Decrees (CDs) has the Commission or any of its Bureaus entered into to resolve questions of whether a target was in compliance with either Section 338 or Section 631 of the Act? Please provide citations to all such CDs.
6. How many investigations or cases regarding compliance with either Section 338 or Section 631 of the Communications Act are currently pending, either at the Bureau or Commission level?
7. In the past three years, has the Commission issued any guidance to industry regarding its responsibilities under Section 338 or 631 of the Communications Act? Please provide citations to all such public notices.

I appreciate your assistance with this important matter. Please provide a response to this letter within three weeks of receipt. Should you have any questions regarding this request, please contact Kevin Dollhopf in the Office of Congresswoman Debbie Dingell at (202) 225-4071 or at kevin.dollhopf@mail.house.gov

Sincerely,



Debbie Dingell
Member of Congress

⁴ While I understand that you cannot disclose details of any pending investigation, such information should not be needed to answer any of the questions.



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 6, 2018

The Honorable Debbie Dingell
U.S. House of Representatives
116 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Dingell:

You wrote to me recently regarding my response to you about the acquisition and use of consumer data by Cambridge Analytica. I agree with you that consumers care about the privacy and security of their personal data, which is why I am glad that the Federal Trade Commission—whom Congress has entrusted with overseeing firms like Cambridge Analytica as well as the privacy practices of other tech companies—is committed to protecting the privacy of consumers and has opened a dialogue with Congress on the best way to do just that. And given the Federal Trade Commission's expertise, the FCC has traditionally focused its investigative efforts on enforcement of our customer proprietary network information (CPNI) rules under section 222 of the Act—rules governing common carriers over whom the Federal Trade Commission has no authority.

In your letter, you ask for specific data regarding any Commission actions involving sections 338(i) and 631 of the Communications Act. As you know, the Commission's policy is to not confirm or deny the existence of any ongoing investigations. As such, I confine my response to completed actions.

The Enforcement Bureau has concluded one enforcement action against a cable operator in connection with a data breach. Specifically, the Bureau entered into a consent decree with Cox Communications in 2015 to resolve an investigation into whether Cox violated our CPNI rules as well as potential related violations of section 631 of the Act.¹

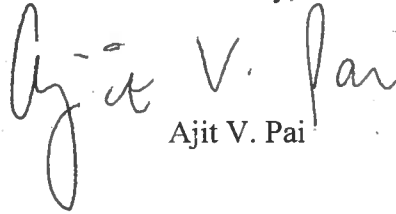
Over the past decade, Commission staff also looked into six potential violations of section 631 of the Act and closed each case without enforcement action. Enforcement Bureau staff have informed me that the Commission has not issued any other consent decrees nor any Notices of Apparent Liability or Forfeiture Orders for violations of sections 338(i) and 631 in the past decade and is not aware of the Commission having ever taken enforcement action in a case not also involving a violation of the Commission's CPNI rules. The Commission nonetheless continues to review consumer complaints, including complaints involving subscriber personal information, and continues to investigate cases where there is credible evidence that our rules or the Act have been violated.

¹ See *Cox Communications, Inc.*, Order, 30 FCC Rcd 12302 (Nov. 5, 2015).

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Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part, followed by "V." and "Pai".

Ajit V. Pai